IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 680 OF 2007
IN
CRIMINAL APPEAL NO. 1283 OF 2006

1. Rajendra Shivaji Burud
2. Tanaji Dhondiba Kshirsagar
3. Mehatab Baban Shaikh ..Applicants
(Org.Accd.Nos.3,4 and 8)

Vs.

The State of Maharashtra ..Respondent

Mr. S.A. Ingawale for applicants.

Mr. D.P. Adsule, APP for State.

CORAM: B.H. MARLAPALLE, J.

Date : July 06, 2007.

P.C.:

1. Heard Mr. Ingawale the learned counsel for the applicants and Mr. Adsule, the learned APP for the State.

2. The applicants have filed Criminal Appeal No. 1283 of 2006 against the order of conviction and

sentence passed by the learned II Ad-hoc Additional Sessions Judge, Kolhapur on 11/10/2006 in Sessions Case No. 45 of 2003. The applicants are accused nos. 3, 4 and 8 respectively and the appeal has been admitted on 22/12/2006. All the three applicants-accused have been sentenced to suffer RI for one year and to pay a fine of Rs.1000/- each and in default to suffer RI for one month more on both the counts, namely, for the offences punishable under Section 148 and under Section 324 read with Section 149 of IPC. In obedience of the order passed by this court on 22/6/2007 the learned trial Judge vide his submissions dated 30/6/2007 has clarified that the sentence "substantial sentences to run concurrently" was inadvertently deleted by the computer operator/steno and the said sentence must be treated as part of the order of conviction and sentence originally passed.

3. It has been noted in the order of conviction and sentence that the accused no.4-Tanaji Dhondiba Kshirsagar was in jail during trial from 23/5/2002 to

9/1/2003 and after the appeal period of 60 days was over, all the accused have surrendered on or about 15/12/2006 as stated by the learned counsel for the applicants and this statement has not been disputed by the learned APP on behalf of the State. Hence the said accused no.4 - Tanaji Kshirsagar has already undergone the sentence of one year. Accused No.3-Rajendra Shivaji Burud was in jail during the trial in the case from 24/5/2002 to 28/8/2002 (3 months and 4 days) and he is presently in jail from 15/12/2006 i.e. for seven months and thus he is likely to complete the sentence within about 50 to 55 days time. Similarly, accused no.8 - Mehatab Baban Shaikh was in jail during the trial from 30/5/2002 to 26/8/2002 (2 months and 24 days) and he has been in jail after the order of conviction and sentence was passed for the last about seven months. He is likely to complete the sentence period within about 80 to 85 days.

4. The application is, therefore, allowed partly and it is directed that applicant no.2-org. accused

no.4 - Tanaji Kshirsagar be released forthwith, as he has already undergone the entire sentence, in case he has deposited the fine amount or he deposits the fine amount before he is released. The other two accused i.e. applicant nos.1 and 3 are directed to be released on completion of their sentence of one year subject to payment of fine.

(B.H. Marlapalle,J.)